

AMENDED IN SENATE JULY 17, 2003  
AMENDED IN ASSEMBLY MAY 20, 2003  
AMENDED IN ASSEMBLY MAY 5, 2003  
AMENDED IN ASSEMBLY APRIL 24, 2003  
AMENDED IN ASSEMBLY MARCH 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 746**

**Introduced by Assembly Member Matthews**

February 19, 2003

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An act to ~~add Section 490.7 to~~ *amend Section 810 of the Business and Professions Code*, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, Matthews. Fraud: healing arts: revocation of professional licenses.

Existing law establishes the Department of Consumer Affairs that is comprised of various boards that license and regulate the profession under the board's jurisdiction. Existing law, by initiative statute, creates the Osteopathic Board of California and the State Board of Chiropractic Examiners with similar licensing and regulatory duties with respect to those professions.

Existing law authorizes a board to suspend or revoke a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

Existing law provides for the Medi-Cal program, pursuant to which health care benefits are provided to public assistance recipients and certain other low-income persons, including dental benefits under the Denti-Cal element of the Medi-Cal program. Under existing law, the Director of Health Services is required to suspend the participation in the Medi-Cal program by a provider of services for conviction of any felony or any misdemeanor involving fraud.

This bill would require specified boards within the department, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners to *convene disciplinary hearings to revoke a license if the licensee has more than one conviction, as defined, for any felony or misdemeanor involving Medi-Cal fraud committed by the licensee in conjunction with the Medi-Cal program or the Denti-Cal element of the Medi-Cal program, and would require revocation unless there are mitigating circumstances. Conviction of the 2nd felony would result in automatic suspension of the license.* The bill would apply to a licensee with one or more convictions prior to January 1, 2004, in a specified manner. *The bill would additionally require these boards to convene disciplinary hearings to suspend or revoke a license if the licensee has one conviction, as defined, for any of the above activities.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1   ~~SECTION 1. Section 490.7 is added to the Business and~~  
2   ~~Professions Code, to read:~~  
3   ~~490.7. (a) A board shall revoke a license, pursuant to Section~~  
4   ~~490, if the licensee is licensed pursuant to Chapter 4 (commencing~~  
5   ~~with Section 1600), Chapter 5 (commencing with Section 2000),~~  
6   ~~Chapter 6.6 (commencing with Section 2900), Chapter 7~~  
7   ~~(commencing with Section 3000), or Chapter 9 (commencing with~~  
8   ~~Section 4000) of Division 2, or pursuant to the Chiropractic Act~~  
9   ~~or the Osteopathic Act, and has more than one conviction of any~~  
10   ~~felony or misdemeanor involving Medi-Cal fraud committed by~~  
11   ~~the licensee in conjunction with the Medi-Cal program, including~~  
12   ~~the Denti-Cal element of the Medi-Cal program, pursuant to~~  
13   ~~Chapter 7 (commencing with Section 14000), or Chapter 8~~  
14   ~~(commencing with Section 14200), of Part 3 of Division 9 of the~~  
15   ~~Welfare and Institutions Code.~~

~~(b) (1) “Board,” as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.~~

~~(2) “More than one conviction,” as used in this section, means that the licensee has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee has two or more convictions on or after January 1, 2004. However, a licensee who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed after that date, does not have “more than one conviction” for the purposes of this section.~~

~~(c) It is the intent of the Legislature for this section to apply to a licensee who has one or more convictions prior to January 1, 2004, as provided in this section.~~

~~(d) Nothing in the section shall preclude a board from suspending or revoking a license pursuant to any other provision of law.~~

*SECTION 1. Section 810 of the Business and Professions Code is amended to read:*

810. (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.

(c) *(1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7*

1 (commencing with Section 3000), or Chapter 9 (commencing with  
2 Section 4000), or pursuant to the Chiropractic Act or the  
3 Osteopathic Act, if a licensee or certificate holder has been  
4 convicted of any felony involving Medi-Cal fraud committed by the  
5 licensee or certificate holder in conjunction with the Medi-Cal  
6 program, including the Denti-Cal element of the Medi-Cal  
7 program, pursuant to Chapter 7 (commencing with Section  
8 14000), or Chapter 8 (commencing with Section 14200), of Part  
9 3 of Division 9 of the Welfare and Institutions Code. The board  
10 shall convene a disciplinary hearing to determine whether or not  
11 the license or certificate shall be suspended, revoked, or some  
12 other disposition shall be considered, including, but not limited to,  
13 revocation with the opportunity to petition for reinstatement,  
14 suspension, or other limitations on the license or certificate as the  
15 board deems appropriate.

16 (2) It shall constitute cause for automatic suspension and for  
17 revocation of a license or certificate issued pursuant to Chapter 4  
18 (commencing with Section 1600), Chapter 5 (commencing with  
19 Section 2000), Chapter 6.6 (commencing with Section 2900),  
20 Chapter 7 (commencing with Section 3000), or Chapter 9  
21 (commencing with Section 4000), or pursuant to the Chiropractic  
22 Act or the Osteopathic Act, if a licensee or certificate holder has  
23 more than one conviction of any felony involving Medi-Cal fraud  
24 committed by the licensee or certificate holder in conjunction with  
25 the Medi-Cal program, including the Denti-Cal element of the  
26 Medi-Cal program pursuant to Chapter 7 (commencing with  
27 Section 14000), or chapter 8 (commencing with Section 14200),  
28 of Part 3 of Division 9 of the Welfare and Institutions Code. The  
29 board shall convene a disciplinary hearing to revoke the license or  
30 certificate and an order of revocation shall be issued unless the  
31 board finds mitigating circumstances to order some other  
32 disposition.

33 (3) It is the intent of the Legislature that paragraph (2) apply  
34 to a licensee or certificate holder who has one or more convictions  
35 prior to January 1, 2004, as provided in this subdivision.

36 (4) Nothing in this subdivision shall preclude a board from  
37 suspending or revoking a license or certificate pursuant to any  
38 other provision of law.

39 (5) "Board," as used in this subdivision, means the Dental  
40 Board of California, the Medical Board of California, the Board

1 of Psychology, the State Board of Optometry, the California State  
2 Board of Pharmacy, the Osteopathic Medical Board of California,  
3 and the State Board of Chiropractic Examiners.

4 (6) “More than one conviction,” as used in this subdivision,  
5 means that the licensee or certificate holder has one or more  
6 convictions prior to January 1, 2004, and at least one conviction  
7 on or after that date, or the licensee or certificate holder has two  
8 or more convictions on or after January 1, 2004. However, a  
9 licensee or certificate holder who has one or more convictions  
10 prior to January 1, 2004, but who has no convictions and is  
11 currently licensed or holds a certificate after that date, does not  
12 have “more than one conviction” for the purposes of this  
13 subdivision.

14 (d) As used in this section, health care professional means any  
15 person licensed or certified pursuant to this division, or licensed  
16 pursuant to the Osteopathic Initiative Act, or the Chiropractic  
17 Initiative Act.

